

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT**

TYSON MANKER, on behalf of himself and
all others similarly situated, and NATIONAL
VETERANS COUNCIL FOR LEGAL
REDRESS, on behalf of itself, its members,
and all others similarly situated,

Plaintiffs,

v.

CARLOS DEL TORO, Secretary of the Navy,

Defendant.

No. 3:18-cv-372 (CSH)

[PROPOSED] FINAL ORDER AND JUDGMENT

WHEREAS:

A. As of _____, _____, Tyson Manker and National Veterans Council for Legal Redress (“NVCLR”) (collectively “Class Representatives”), individually and on behalf of themselves, NVCLR’s members, and a class of persons similarly situated (the “Plaintiffs”), on the one hand, and Carlos Del Toro, in his official capacity as Secretary of the U.S. Navy (the “Navy”) (“Defendant”), on the other, entered into a Stipulation and Agreement of Settlement (the “Stipulation” or “Settlement Agreement”) in the above-titled litigation (the “Action”), which is subject to review under Rule 23 of the Federal Rules of Civil Procedure and which, together with the exhibits thereto, sets forth the terms and conditions of the proposed settlement of the Action and the claims alleged in the Complaint filed on March 2, 2018 (Dkt. No. 1) on the merits and with prejudice (the “Settlement”);

B. Pursuant to the Order Granting Preliminary Approval of Class Action Settlement, entered _____, 2021 (the “Preliminary Approval Order”), the Court scheduled a hearing

for _____, _____, at ____:____.m. (the “Fairness Hearing”) to, among other things: (i) determine whether the proposed Settlement of the Action on the terms and conditions provided for in the Stipulation is fair, reasonable, and adequate, and should be approved by the Court; and (ii) determine whether a judgment as provided for in the Stipulation should be entered;

C. The Court ordered that the Class Notice, substantially in the forms attached to the Stipulation as **Exhibit “A,”** be provided to Settlement Class members as described in the Stipulation. The Class Notice advised potential Settlement Class members of the date, time, place, and purpose of the Fairness Hearing. The Class Notice further advised that any objections to the Settlement were required to be filed with the Court and served on counsel for the Parties such that they were received by _____, _____;

D. The provisions of the Preliminary Approval Order as to notice were complied with;

E. On _____, _____, Plaintiffs moved for final approval of the Settlement, as set forth in the Preliminary Approval Order. The Fairness Hearing was duly held before this Court on _____, _____, at which time all interested Persons were afforded the opportunity to be heard; and

F. This Court has duly considered Plaintiffs’ motion, the affidavits, declarations, memoranda of law submitted in support thereof, the Stipulation, and all of the submissions and arguments presented with respect to the proposed Settlement;

NOW, THEREFORE, after due deliberation, IT IS ORDERED, ADJUDGED AND DECREED that:

1. This Judgment incorporates and makes a part hereof the Stipulation filed with the Court on _____, 2021. Capitalized terms not defined in this Judgment shall have the meaning set forth in the Stipulation.

2. This Court has jurisdiction over the subject matter of the Action and over all parties to the Action, including all Settlement Class members.

3. The Court hereby affirms its determinations in the Preliminary Approval Order and finally certifies, for purposes of the Settlement only, pursuant to Rule 23(b)(2) of the Federal Rules of Civil Procedure, the Settlement Class of:

Veterans who served during the Iraq and Afghanistan Era—defined as the period between October 7, 2001, and the present—who:

- a) were discharged from the Navy, Navy Reserves, Marine Corps, or Marine Corps Reserve with less-than-Honorable statuses, including General and Other-than-Honorable discharges but excluding Uncharacterized, Bad Conduct, Dishonorable discharges, or Dismissals;
- b) have not received upgrades of their discharge statuses to Honorable from the NDRB; and
- c) have diagnoses of PTSD, TBI, or other related mental health conditions, or records documenting one or more symptoms of PTSD, TBI, or other related mental health conditions at the time of discharge, attributable to their military service under the Hagel Memo standards of liberal or special consideration.

4. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, and for purposes of the Settlement only, the Court hereby re-affirms its determinations in the Preliminary Approval Order and finally certifies Tyson Manker and National Veterans Council for Legal Redress as Class Representatives for the Settlement Class; and finally appoints the Jerome N. Frank Legal

Services Organization of Yale Law School and the law firm of Jenner & Block LLP as Class Counsel for the Settlement Class.

5. The Court finds that the publication of the Class Notice (i) complied with the Preliminary Approval Order; (ii) constituted the best notice practicable under the circumstances; (iii) constituted notice that was reasonably calculated to apprise Settlement Class members of the effect of the Settlement, of Class Counsel's request for an award of attorney's fees and payment of litigation expenses incurred in connection with the prosecution of the Action, of Settlement Class members' right to object to the Settlement, and of their right to appear at the Fairness Hearing; (iv) constituted due, adequate, and sufficient notice to all Persons entitled to receive notice of the proposed Settlement; and (v) satisfied the notice requirements of Rule 23 of the Federal Rules of Civil Procedure and the United States Constitution (including the Due Process Clause).

6. [There have been no objections to the Settlement.]

7. In light of the benefits to the Settlement Class, the complexity, expense and possible duration of further litigation against Defendant, the risks of establishing liability and damages, and the costs of continued litigation, the Court hereby fully and finally approves the Settlement as set forth in the Stipulation in all respects, and finds that the Settlement is, in all respects, fair, reasonable and adequate, and in the best interests of Class Representatives and the Settlement Class. This Court further finds the Settlement set forth in the Stipulation is the result of arm's-length negotiations between experienced counsel representing the interests of Class Representatives, the Settlement Class, and Defendant. The Settlement shall be consummated in accordance with the terms and provisions of the Stipulation.

8. The Complaint filed on March 2, 2018 (Dkt. No. 1) is dismissed in its entirety, with prejudice, and without costs to any Party, except as otherwise provided in the Stipulation.

9. The Court finds that during the course of the Action, the Parties and their respective counsel at all times complied with the requirements of Rule 11 of the Federal Rules of Civil Procedure.

10. Upon the Effective Date of the Settlement and as specified in the Stipulation, Class Representatives and each and every other Settlement Class Member, on behalf of themselves and each of their respective heirs, executors, trustees, administrators, predecessors, successors, and assigns, shall be deemed to have fully, finally, and forever waived, released, discharged, and dismissed each and every one of the Settled Claims against the Defendant and shall forever be barred and enjoined from commencing, instituting, prosecuting, or maintaining any and all of the Settled Claims against the Defendant.

11. Each Settlement Class member is bound by this Judgment, including, without limitation, the release of claims as set forth in the Stipulation.

12. Defendant shall pay Class Counsel's fees and costs in the amount of \$220,000, as specified in the Attorney Fee Agreement. This amount does not include any time, if necessary, to enforce any breach of the Stipulation. The Court finds that this award is fair and reasonable. This payment shall be made in accordance with the timeline specified in the Attorney Fee Agreement.

13. Without further order of the Court, the Parties may agree to reasonable extensions of time to carry out any of the provisions of the Stipulation.

14. The Parties are hereby directed to consummate the Stipulation and to perform its terms.

15. Without affecting the finality of this Judgment in any way, this Court hereby retains continuing jurisdiction over: (i) implementation of the Settlement; (ii) the allowance, disallowance or adjustment of any Settlement Class member's claim on equitable grounds; (iii) all parties for the purpose of construing, enforcing and administering the Settlement and this Judgment; and (vi) other matters related or ancillary to the foregoing. There is no just reason for delay in the entry of this Judgment and immediate entry by the Clerk of the Court is expressly directed.

DATED this _____ day of _____, _____

BY THE COURT:

Honorable Charles S. Haight, Jr.
UNITED STATES DISTRICT JUDGE